

RUNNYMEDE BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

APPLICATION FOR A PREMISES LICENCE

309 WOODHAM LANE, NEW HAW, SURREY KT15 3PB

HEARING DECISION NOTICE - DATE OF HEARING 19 MAY 2010

Members of the Committee: Councillors D W Parr, Mrs F J Barden
and P A Francis

Other persons present: Applicant: Mr Ajay Sharma
Mr Matthew Pascal of Counsel
Hayley Prideaux Solicitor for the Applicants.
Derek Seekings Senior Licensing Officer
Bruce Bennett Legal advisor to the Committee

Responsible Authorities: Mr Alan Renner of Trading Standards
Nicola Smith of Trading Standards
Mr Richard Medhurst of Surrey Police

This is an Application by Mr Ajay Sharma and Mrs Naresh Sharma in respect of premises at 309 Woodham Lane, New Haw, Addlestone, Surrey, KT15 3PB for a premises licence to trade as Woodham Wines and Spirits.

The Application is made under Sections 12 and 17 of the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises only. The hours the Applicants wish to sell alcohol being 11.00 hours to 23.00 hours Mondays to Saturdays and 22.00 hours on Sundays.

Representations were received from Surrey Trading Standards and Surrey Police as responsible authorities and from T Speller of 14 Warren Road, New Haw, Addlestone as an interested party.

The Committee heard that there was no complaint as to the operation of the premises when previously a Threshers Wine Shop. One of the joint licensees of the premises when it was operating as a Threshers store, was Mr James Ogston, who it was proposed should be the new DPS for the premises. There was no objection to Mr Ogston.

The Committee heard and was mindful generally of a history of sale of alcohol to under age persons and of related complaints of anti-social behaviour in the immediate area over the recent past and of the actions taken by the police and the licensing authority in controlling this.

The Committee heard from Mr Renner and from Mr Medhurst of the history of complaint of under age sale of cigarettes, and, it was suggested, alcohol, from Mr and Mrs Sharma's premises at 286 Woodham Lane, New Haw. This being the Woodham Lane Sub-Post Office of which Mr Sharma was the sub post master.

Mr Renner told the Committee that there had been numerous complaints made to Surrey Trading Standards alleging the sale of cigarettes to persons under-age from the premises at 286 Woodham Lane and also the sale of alcohol. The complaints

and intelligence received by Surrey Trading Standards suggested that Mr Sharma had a good relationship with the local troubled youth to whom he sold cigarettes and possibly also alcohol. This was supported by the Witness Statements of Graham Wilebore, Julie Anne Edwards, Teresa Speller and Tanya Dobson. All alleged that children could buy cigarettes from the Sub Post Office and in the case of Edwards produced a copy receipt of a purchase of cigarettes. This was further supported by the Police in their representation and also Mrs Speller in her letter of 28 April 2010.

Mrs Speller wrote "Mr Sharma also runs the local Post Office, a location well known locally for selling cigarettes to school children who blatantly then stand outside the local smoking. I believe that in order to protect children from harm the Application should also be denied on these grounds. If you will sell young children cigarettes without question, I have little doubt that the store would be just as lax in the selling of alcohol under age".

Mr Renner advised the Committee of the history of complaint to Surrey Trading Standards which dated back as far as July 2004. A number of test purchases were carried out by Surrey Trading Standards on the following dates – 27 October 2005, 9 July 2008, 15 August 2008 and 26 June 2009. All the test purchases were passed with the exception of that carried out on 9 July 2008 when cigarettes were sold to a 15 year old volunteer by Mrs Naresh Sharma. During the test purchase of 9 July 2008 a total of 10 shops were test-purchased and Mr and Mrs Sharma's

premises was the only shop to fail. During the sale the 15 year old volunteer was not asked any questions. Nicola Smith told the Committee that when she and PCSO Tina Gomez returned to the shop to explain what happened Mr Sharma became aggressive and at one point stood extremely close to PCSO Tina Gomez raising his voice stating that the whole situation was a "stitch up". This incident was followed up by a "written warning" dated 3 November 2008.

Mr Sharma had advised Surrey Trading Standards that he would not be involved in running the premises the subject of this application. However the concern of Trading Standards was that as the proprietor of the shop or premises he would have ultimate control and once the licence had been granted he may then become more "hands on" in the running of the premises.

Mr Pascal for Mr Sharma obtained clarification from Mr Medhurst that there was no objection to the licensing of the premises per se and nor to Mr Ogston.

Mr Sharma for his part refuted the allegations of Mr Wilebore and Julie Anne Edwards. He told the Committee that the allegation of Wilebore was motivated by the fact that his daughter had been caught stealing and had been barred and that of Edwards had arisen out of an incident when she had come to post a parcel and had become abusive. He said that Dobson's allegation was false.

He said that he had never and never would knowingly sell cigarettes to under age persons. He said that he had in place an "Under 21" policy, had CCTV in his shop,

required proper identification and maintained a refusals log. As to the premises the subject of the application he told the Committee that as the sub postmaster of the sub post office he was involved in that from early in the morning to about 9.00pm in the evening and would not have time to be actively involved in the running of it the off licence. He had attended the licensing course to become a personal licence holder but had not as yet applied to be a personal licence holder as he was waiting for his CRB check. He told the Committee that there would be CCTV on the premises and overlooking the forecourt, that there would be an "Under 25" policy, that the till had prompts installed, that the CCTV could be remotely accessed, that a refusals log would be maintained, that after 6.00pm all children on the premises would be required to be accompanied by an adult and that all sales would be by a personal licence holder.

Mr Medhurst told the Committee that the Police concern was the protection of children and to prevent public nuisance through alcohol being sold to under age persons. He confirmed that there had been a problem of under age youths hanging around but not presently.

If alcohol could be obtained then the problem of anti social behaviour goes with it. The main offender had been another premises in the Broadway which had been subject to closure and on re-opening has not been selling to youths. He confirmed that the Council operated CCTV did give a good view of the locality of the premises.

Mr Pascal submitted that the application was in relation to premises which had operated previously for at least 20 years as an off licence and were not of themselves a cause of disorder or threat to children. There was no pattern of under age sales at the premises and with Mr Ogston as DPS there was no reason to suspect this would change. He was a "safe pair of hands". Mr Pascal in response to Committee concerns that Mr Ogston could not be on the premises at all times they were open referred to guidance as to authorisation of sales by those who do not hold a personal licence but re-iterated that there would be two personal licence holders on the premises and that the DPS was ultimately accountable in law. He re-iterated that Mr Sharma was busy with his sub post office and would not be actively involved in the running of the off licence, leaving this to Mr Ogston. There was no intention that he would devote more time. That said, Mr Pascal did say that it would not be reasonable to expect that the Committee would not have regard to the history of complaint as to Mr Sharma. Nonetheless, he reminded the Committee that there had been only one failed test purchase and that was not a bad record and that Mr Sharma had otherwise addressed the issues properly.

DECISION

The Committee were satisfied that the licensing objectives of protection of children from harm and of prevention of nuisance were engaged. Having regard to the

Council's Policy and Guidance issued by the Secretary of State the decision of the Committee was:

That the application be granted subject to the following conditions:

- 1) The terminal hour for the premises to be open to the public and for the supply of alcohol be 21.00 hours Monday to Sunday.
- 2) That no person under the age of 14 be permitted on the premises except in the company of an adult.
- 3) That no person under the age of 16 be permitted on the premises after the hour of 18.00 hours except in the company of an adult.
- 4) That a system of CCTV, till prompts and refusals book be agreed with the police and the Licensing Authority, put in place and implemented.
- 5) That a proof of age policy such as an "Under 25" policy be put in place and implemented.
- 6) That all sales of alcohol to be by a person holding a personal licence.

REASONS:

The Committee was satisfied that notwithstanding that the premises and Mr Ogston had a good record, there was a history of nuisance from the sale of alcohol to under age persons from premises nearby. That situation had been much improved, but only after a good deal of work by the Police and the Licensing Authority. There was a clear potential for anti social behaviour to again become a problem in the area should alcohol be sold from the premises to under age persons and also for harm to children.

The Committee, as suggested by Mr Pascal, could not fail but to have regard to the history of complaint made against Mr Sharma and took the view that, notwithstanding, he would for the most part be managing his sub post office there was the clear potential for him to be involved in the management and running of the premises particularly later in the evening.

They were satisfied that there was evidence that children had been obtaining cigarettes from the sub post office and were not satisfied by Mr Sharma's explanations in refuting the allegations made against him

They were particularly concerned as to the potential for under age sales later in the evening and noted that the premises, in common with many off-licences, which

were not also convenience stores, had previously not traded later than about 9.00pm.

The situation in the Broadway and the area generally was in the view of the Committee, finely balanced, and it seemed reasonable to the Committee to restrict the hours of operation to 21.00 hours.

APPEAL

If the Applicant or any person having made a representation is aggrieved by this decision then he, she or they have a right of appeal to the Magistrates Court at Woking to be exercised within 21 days of having been notified of this decision.

Dated: 10th June 2010

Signed:

A handwritten signature in black ink, appearing to read 'Derek Seekings', written in a cursive style.

Mr Derek Seekings

Senior Licensing Officer.